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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/218,085	12/22/1998	JAY S. WALKER	98-038	3571

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EXAMINER

HAVAN, THU THAO

ART UNIT	PAPER NUMBER
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3691

MAIL DATE	DELIVERY MODE
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05/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/218,085

Applicant(s)

WALKER ET AL.

Examiner

Thu Thao Havan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19,23,26,28,29,49 and 53-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19, 23, 26, 28-29, 49, and 53-81 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claims 19, 23, 26, 28-29, 49, and 53-81 are pending. This action is in response to the remarks received February 23, 2007.

Response to Arguments

The rejection of claims 19, 23, 26, 28-29, 49, and 53-81 under 35 U.S.C. 103(a) as being unpatentable by Hayashi et al. (US 4,654,800) and Engstrom (US 5,780,133) is maintained.

Upon a closer examination, Applicant's arguments filed February 23, 2007 have been fully considered but they are not persuasive.

In response to the arguments concerning the previously rejected claims the following comments are made:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., interactions with customers) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant alleges that the prior art made of record fails to teach an automatic sales machine for selling a product, the sales machine comprising: select a product from among the plurality of products based on the monetary value and the minimum acceptable price data

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and output via an output device an offer of the product to a consumer. The examiner disagrees with applicant's representative since Hayashi teaches an automatic sales machine for selling a product (col. 1, lines 13-19), the sales machine comprising: select a product from among the plurality of products based on the monetary value and the minimum acceptable price data (col. 14, lines 11-68) and output via an output device an offer of the product to a consumer (figs. 1 and 13 (product dispenser)). Hayashi discloses interactions with customers when the customer purchases products from the vending machine. He discloses a control apparatus for a vending machine, including storage means for storing sales management data for controlling total selling in the vending machine and selling in each column, i.e., sales management data such as total sales, the number of products sold, the number of unsold products, the unit price, the sales discount, continuous selling and group selling; column selecting means for selecting the entire vending machine and each column; sales management item selecting means for selecting management items of the sales management data; a column display unit for displaying a column selected by the column selecting means; a data display unit for displaying the sales management data; and control means for reading out from the storage means data associated with an item selected by the sales management item selecting means and with the column selected by the column selecting means, thereby displaying sales conditions and selling states of the entire vending machine and each column on the column display unit and the data display unit. The control apparatus further includes input means for setting or updating the sales management data stored in the storage means, such as sales conditions. The storage means has a failure table

for storing failure positions. When a failure occurs in the vending machine, a failure check mode is set by failure check selecting means. A proper failure position is read out from the failure table and is displayed on the column and data display units.

In addition, Applicant alleges that the prior art made of record fails to teach the limitations in some of the dependent claims. Examiner particularly addressed every limitation in the independent claims. Therefore, the non-final office action of November 24, 2006 as a whole also addressed the dependent claims.

With regards to the claims rejected as taught by Hayashi and Engstrom, the examiner would like to point out that the reference teaches the claimed limitations and thus provides adequate support for the claimed limitations. Therefore, the examiner maintains that Hayashi and Engstrom taught the claimed limitations.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **19, 23, 26, 28-29, 49, and 53-81** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi et al. (US 4,654,800) in view of Engstrom (US 5,780,133).

Re claims **19, 49, 53, 55-56, 64, 72, 76, and 80-81**, Hayashi teaches an automatic sales machine for selling a product (col. 1, lines 13-19), the sales machine comprising:

a processor (fig. 1);

a memory connected to said processor storing a program to control the operation of said processor (figs. 10 and 1);

the processor operative with the program in the memory to:

maintain a database of product data (col. 3, lines 18-34; figs. 2-3), including normal price data and minimum acceptable price data for each of a plurality of products (col. 7, line 40 to col. 8, line 42; fig. 2; Discount prices correspond to the minimum acceptable price);

identify a monetary value available for purchasing a product (col. 12, lines 37-68);

select a product from among the plurality of products based on the monetary value and the minimum acceptable price data (col. 14, lines 11-68);

output via an output device an offer of the product to a consumer (figs. 1 and 13 (product dispenser));

determine whether the consumer accepts the offer (col. 9, lines 32-59); and

dispense the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer (fig. 1 (product dispenser)).

However, Hayashi does not explicitly teach the product identity being concealed at the time of offer. On the other hand, Engstrom discloses the product identity being concealed at the time of offer when he discloses a sheet which is covered to hide coupons and two offers with each coupon (col. 1, lines 40-51; col. 2, line 64 to col. 3, line 21; abstract). Engstrom discloses an improved variable value retail coupon system where at least one

coupon with at least two different offers is formed on the sheet and provisions are made to hide the coupon. He hides the offers so that the user does not know the value of the offer he is saving or destroying before he opens the system. Thus, it would have been obvious to one of ordinary skill in the art to conceal the product at the time of offer when hiding an offer such as a coupon from the customer so that the customer does not know the value of the offer as discloses in Engstrom.

Re claims **23, 54, 59-60, 68-69, 73-75, and 77-79**, Hayashi teaches processor is further operative with the program in the memory to select a combination of products (col. 12, lines 37-68).

Re claims **26 and 57-58**, Hayashi teaches processor is further operative with the program in the memory to determine whether the monetary value is at least as great as the lowest minimum acceptable price, and to offer the product performed only upon determining that the monetary value is at least as great as the lowest minimum acceptable price (col. 7, line 40 to col. 8, line 42).

Re claims **28, 61, 65-67, and 71**, Hayashi teaches databases further includes expiration data for each of the plurality of products and wherein the processor is further operative with the program in the memory to select the product based on the expiration data (col. 19, lines 18-35).

Re claims **29, 62-63, 67, and 70**, Hayashi teaches profitability data for each of the plurality of products and wherein the processor is further operative with the program in the memory to select the product based on the profitability data (col. 16, lines 30-52).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached during her flexitime schedule.

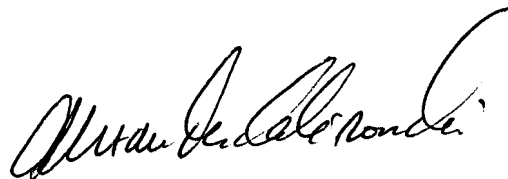
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct-uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

TTH
5/12/2007

A handwritten signature in black ink, appearing to read "Alexander Kalinowski", with a large, stylized flourish at the end.

ALEXANDER KALINOWSKI
SUPERVISORY PATENT EXAMINER